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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT TACOMA

13 RICKEY CALHOUN,

14 Plaintiff,

15 v.

16 DR. HENRY RICHARDS *et al.*,

17 Defendants.
18

CASE NO. C08-5101RBL/JRC

REVISED SCHEDULING
ORDER

19 This 42 U.S.C. § 1983 action has been referred to the undersigned Magistrate Judge
20 pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates Judges' Rules
21 MJR 1, MJR 3, and MJR 4. The Court has re-opened discovery. A revised Scheduling Order is
22 appropriate. It is hereby ORDERED:
23

24 Discovery

25 All discovery shall be completed by August 7, 2009. Service of responses to
26 interrogatories and to requests to produce, and the taking of depositions shall be completed by
this date. Federal Rule of Civil Procedure 33(b) (3) requires answers or objections to be served

1 within **thirty (30) days** after service of the interrogatories. The serving party, therefore, must
2 serve his/her interrogatories at least **thirty (30) days** before the deadline in order to allow the
3 other party time to answer.

4 Motions

5 Any dispositive motion shall be filed and served on or before September 4, 2009. The
6 motion shall include in its caption (immediately below the title of the motion) a designation of
7 the Friday upon which the motion is to be noted upon the court's calendar. That date shall be the
8 fourth Friday following filing of the dispositive motion. All briefs and affidavits in opposition to
9 any motion shall be filed and served not later than 4:30 p.m. on the Monday immediately
10 preceding the Friday appointed for consideration of the motion. If a party fails to file and serve
11 timely opposition to a motion, the court may deem any opposition to be without merit. The party
12 making the motion may file, not later than 4:30 p.m. on the Thursday immediately preceding the
13 Friday designated for consideration of the motion, a response to the opposing party's briefs and
14 affidavits. The documents must indicate in the upper right-hand corner the name of the
15 magistrate judge to whom the documents are to be delivered.

16 If a motion for summary judgment is filed, it is important for the opposing party to note
17 the following:

18 A motion for summary judgment under Rule 56 of the Federal Rules of
19 Civil Procedure will, if granted, end your case.

20 Rule 56 tells you what you must do in order to oppose a motion for
21 summary judgment. Generally, summary judgment must be granted when there is
22 no genuine issue of material fact -- that is, if there is no real dispute about any fact
23 that would affect the result of your case, the party who asked for summary
24 judgment is entitled to judgment as a matter of law, which will end your case.

25 When a party you are suing makes a motion for summary judgment that is
26 properly supported by declarations (or other sworn testimony), you cannot simply
27 rely on what your complaint says. Instead, **you must set out specific facts in
28 declarations, deposition, answers to interrogatories, or authenticated
29 documents, as provided in Rule 56(e), that contradict the facts shown in the
30 defendant's declarations and documents and show that there is a genuine
31 issue of material fact for trial. If you do not submit your own evidence in
32 opposition, summary judgment, if appropriate, may be entered against you.
33 If summary judgment is granted, your case will be dismissed and there will
34 be no trial.**

1 Rand v. Rowland, 154 F.3d 952, 962-963 (9th Cir. 1998) (emphasis added). Furthermore, Local
2 Rule CR 7(b) (4) states that a party's failure to file necessary documents in opposition to a
3 motion for summary judgment may be deemed by the court to be an admission that the
4 opposition is without merit.

5 Joint Status Report

6 Counsel and *pro se* parties are directed to confer and provide the court with a joint status
7 report by no later than December 4, 2009. The joint status report shall contain the following
8 information by corresponding paragraph numbers:

- 9 1. A short and concise statement of the case, including the remaining legal and factual
10 issues to be determined at trial;
- 11 2. A narrative written statement from each party setting forth the facts that will be
12 offered by oral or written documentary evidence at trial;
- 13 3. A list of all exhibits to be offered into evidence at trial;
- 14 4. A list of the names and addresses of all the witnesses each party intends to call along
15 with a short summary of anticipated testimony of each witness.
- 16 5. Whether the parties agree to arbitration or mediation under this district's arbitration
17 program, and if so whether the arbitration will be final and conclusive or the right to trial de
18 novo will be preserved (see Local Rule CR 39.1(d));
- 19 6. Whether the case should be bifurcated by trying the liability issues before the damages
20 issues, or specially managed in any other way;
- 21 7. Any other suggestions for shortening or simplifying the trial in this case;
- 22 8. The date the case will be ready for trial, considering Local Rule CR 16 deadlines;
- 23 9. The dates on which trial counsel are unavailable and any other complications to be
24 considered in setting a trial date;
- 25 10. Whether the trial will by jury or non-jury;
- 26 11. The number of trial days required, and suggestions for shortening trial;

1 12. The names, addresses, and telephone numbers of all trial counsel and unrepresented
2 (pro se) parties who intend to appear at trial.

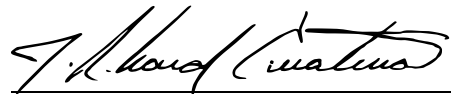
3 If the parties are unable to agree on any part of the report, they may answer in separate
4 paragraphs. **Separate reports are not to be filed.** Plaintiff's counsel (or plaintiff, if *pro se*) will
5 be responsible for initiating communications for the preparation of the joint status report.

6 Proof of Service & Sanctions

7 All motions, pretrial statements and other filings shall be accompanied by proof that such
8 documents have been served upon counsel for the opposing party (or upon any party acting pro
9 se). The proof shall show the day and manner of service and may be by written acknowledgment
10 of service, by certificate of a member of the bar of this court, by affidavit of the person who
11 served the papers, or by any other proof satisfactory to the court. Such proof of service shall
12 accompany both the original and duplicates filed with the Clerk. Failure to comply with the
13 provisions of this Order can result in dismissal/default judgment or other appropriate sanctions.

14 The Clerk of Court is directed to send a copy of this Order to plaintiff.

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16 Dated this 17th day of April, 2009.

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19 J. Richard Creatura
20 United States Magistrate Judge
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